

Mark D. Zukowski, Bar #006734
John M. Gregory, Bar #030633
JONES, SKELTON & HOCHULI P.L.C.
40 N. Central Avenue, Suite 2700
Phoenix, Arizona 85004
Telephone: (602) 263-4554
Fax: (602) 200-7863
mzukowski@jshfirm.com
jgregory@jshfirm.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Chandler Fernandez,

Plaintiff,

v.

Cathan Cornelius, an individual; and The
Church of Jesus Christ of Latter-day
Saints, a Utah corporation sole, et al.,

Defendants.

No. CV-23-146-PHX-MTL

**Defendants' Statement of Good Cause
for Subject Matter Jurisdiction**

Defendants, in response to the Court's order of February 9, 2023, hereby submit this statement in support of their removal to United States District Court, District of Arizona.

I. PERTINENT FACTUAL BACKGROUND

This case arises out of a motor vehicle accident occurring in Maricopa County, Arizona (Complaint ¶ 2, 9) and involving Chandler Fernandez and Cathan Cornelius. Mr. Cornelius was a missionary for The Church of Jesus Christ of Latter-day Saints at the time of the accident. Plaintiff is a resident of Maricopa County, Arizona. (Complaint ¶ 3). Contrary to the allegations in the Complaint, however, Defendant Cornelius is a resident of and domiciled in Idaho. (**Exhibit A**, Affidavit of Cathan Cornelius, ¶ 3). Plaintiff sought to have the case set in discovery Tier 3 upon filing in Maricopa County Superior Court. (Complaint p. 1).

1 **II. LEGAL ARGUMENT**

2 As alleged in Plaintiff’s complaint, jurisdiction is proper under 28 U.S.C. §
3 1332 and § 1441. (Complaint ¶ 1). Congress grants the District Court original jurisdiction
4 of disputes between parties of different states, provided the amount in controversy exceeds
5 \$75,000. 28 U.S.C. § 1332(a).

6 Plaintiff filed this case in the Superior Court in and for Maricopa County and
7 designated its discovery tier as Tier 3. A Tier 3 case signifies that the filing party believes
8 that the amount in controversy is \$250,000 or greater. Rule 26.2(c)(3)(C), *Arizona Rules*
9 *of Civil Procedure*. The amount in controversy requirement of 28 U.S.C. § 1332(a) is
10 therefore satisfied.

11 The only remaining requirement for this Court to have jurisdiction under 28
12 U.S.C. § 1332(a) is that the parties be of different states. “Absent unusual circumstances,
13 a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the
14 actual citizenship of the relevant parties.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853,
15 857 (9th Cir. 2001). At the removal stage, “the defendants [are] merely required to allege
16 (not to prove) diversity.” *Id.* The Court nevertheless has an interest in determining
17 “legitimate questions” about the same. *See Id.*

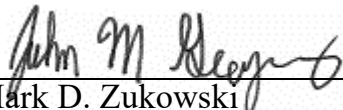
18 The Court indicated that such a question was created by Plaintiff’s allegation
19 in the Complaint that Defendant Cornelius is an Arizona resident. That allegation is wrong.
20 Defendant Cornelius is a citizen of and domiciled in Idaho. (See **Exhibit A**). He has never
21 been domiciled in Arizona, and any time in Arizona was spent only as part of his religious
22 mission and without any intent to remain a citizen of or domiciled in Arizona. It is also
23 undisputed that Defendant, The Church of Jesus Christ of Latter-day Saints, a Utah
24 corporation sole, is domiciled in Utah, creating complete diversity—Plaintiff a resident of
25 Arizona and defendants residents of Utah and Idaho. Jurisdiction is therefore proper under
26 28 U.S.C. § 1332(a).

1 **III. CONCLUSION**

2 Based on this affidavit, Defendants believe that the allegation of Defendant
3 Cornelius being a resident of Arizona has been effectively disproven and that there is no
4 longer any question about whether this Court has jurisdiction pursuant to 28 U.S.C. §
5 1332(a). Defendants are nevertheless happy to provide this Court with any additional
6 information it believes is necessary to resolve any questions about whether diversity is
7 proper under 28 U.S.C. § 1332(a), and would indeed seek leave of the Court to provide as
8 much should such a question remain.

9 DATED this 23rd day of February, 2023.

10 JONES, SKELTON & HOCHULI, P.L.C.

11
12 By 
13 Mark D. Zukowski
14 John M. Gregory
15 40 N. Central Avenue, Suite 2700
16 Phoenix, Arizona 85004
17 Attorneys for Defendants

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on this 23rd day of February, 2023, I caused the foregoing
20 document to be filed electronically with the Clerk of Court through the CM/ECF System
21 for filing; and served on counsel of record via the Court's CM/ECF system.

22 /s/ Wendy Mungai